

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MORALES,) CV-06-219-JF
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) FEBRUARY 8, 2011
)
CATE, ET AL,) PAGES 1-55
)
DEFENDANT.)
_____)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JEREMY FOGEL
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: LAW OFFICE OF JOHN R. GRELE
BY: JOHN GRELE
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SAN FRANCISCO, CA 94105

FOR THE DEFENDANT: CA STATE ATTORNEY GENERAL'S OFF
BY: MICHAEL QUINN
JAY GOLDMAN
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(APPEARANCES CONTINUED ON NEXT PAGE.)

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CERTIFICATE NUMBER 13185

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22 ALSO PRESENT: GEORGE KOLOMBATOVICH
23 MARGARET EPLER
24 DIANA MUNZ
25 SUMMER FISHER
SAMUEL ROBINSON
SARAH COHBRA
ERIC MASON
BEN RICE
RUDY LUNA
ERIC MESSIEK
OSCAR HIDALGO
PAUL ELIAS
MICHAEL LAURENCE
HOWARD MINTZ
JULIE SMALL
SCOTT SMITH
MICHAEL GROPPER
CAROL WILLIAMS

1 SAN JOSE, CALIFORNIA

FEBRUARY 8, 2011

2 P R O C E E D I N G S

3 (WHEREUPON, COURT CONVENED AND THE
4 FOLLOWING PROCEEDINGS WERE HELD:)

5 THE COURT: ALL RIGHT.

6 LET'S COME TO ORDER AND GO ON THE RECORD.
7 WE ARE AT THE SAN QUENTIN STATE PRISON IN THE
8 MATTER OF MORALES VERSUS CATE AND THE RELATED
9 ACTIONS.

10 AND I THINK WE SHOULD MAKE A RECORD AS TO
11 WHO IS PRESENT BEFORE WE GO FORWARD WITH THE
12 PROCEEDINGS.

13 SO WHY DON'T WE JUST HAVE EVERYONE -- WE
14 HAVE A LOT OF PEOPLE IN THE ROOM HERE. LET'S HAVE
15 EVERYONE IDENTIFY THEMSELVES.

16 MS. EPLER: MARGARET EPLER, STAFF
17 ATTORNEY, NINTH CIRCUIT.

18 MR. ROBINSON: LIEUTENANT SAM ROBINSON,
19 PUBLIC INFORMATION OFFICER, SAN QUENTIN STATE
20 PRISON.

21 MR. LUNA: LIEUTENANT RUDY LUNA,
22 ADMINISTRATIVE ASSISTANT TO THE WARDEN, SAN QUENTIN
23 STATE PRISON.

24 MR. KOLOMBATOVICH: GEORGE KOLOMBOTOVICH,
25 DEATH PENALTY STAFF ATTORNEY AT THE FEDERAL

1 DISTRICT COURT WITH JUDGE FOGEL.

2 MR. HEATH: MARK HEATH, EXPERT FOR THE
3 PLAINTIFF.

4 MR. KRISHNAN: AJAY KRISHNAN FOR PACIFIC
5 NEWS SERVICE. WITH ME IS DR. MICHAEL GROPPER.

6 MS. SMALL: JULIE SMALL WITH SOUTHERN
7 CALIFORNIA PUBLIC RADIO, KPCC.

8 MR. LAURENCE: MICHAEL LAURENCE, HABEUS
9 CORPUS RESOURCE CENTER.

10 MR. SENIOR: DAVID SENIOR ON BEHALF OF
11 MICHAEL MORALES AND ALBERT BROWN.

12 MS. COHBRA: SARA COHBRA, HABEAS CORPUS
13 RESOURCE CENTER.

14 MR. ELIAS: PAUL ELIAS, I'M A REPORTER
15 WITH THE ASSOCIATED PRESS.

16 MR. MINTZ: HOWARD MINTZ, SAN JOSE
17 MERCURY NEWS.

18 MR. SMITH: I'M SCOTT SMITH WITH THE
19 STOCKTON RECORD NEWSPAPER.

20 MS. WILLIAMS: CAROL WILLIAMS WITH THE
21 LOS ANGELES TIMES.

22 MR. STEINKEN: RICHARD STEINKEN, COUNSEL
23 FOR MICHAEL MORALES AND ALBERT BROWN.

24 MS. SPELMAN: KATE SPELMAN.

25 MS. MORRISON: KELLY MORRISON, ALSO

1 COUNSEL FOR BROWN AND MORALES.

2 MR. MASON: ERIC MASON, INVESTIGATOR FOR
3 PLAINTIFF'S COUNSEL.

4 MS. DOHERTY: JEAN DOHERTY ALSO FOR
5 MR. BROWN AND MR. MORALES.

6 MR. GRELE: JOHN GRELE ON BEHALF OF
7 MR. MORALES AND MR. BROWN.

8 MR. QUINN: MICHAEL QUINN FOR DEFENDANTS.

9 MR. GOLDMAN: JAY GOLDMAN FOR DEFENDANTS.

10 MR. RICE: BEN RICE, GENERAL COUNSEL,
11 CDCR.

12 MR. HIDALGO: OSCAR HIDALGO, CDCR
13 COMMUNICATIONS.

14 MR. MESSIEK: ERIC MESSIEK, LITIGATION
15 COORDINATOR, SAN QUENTIN.

16 THE COURT: ALSO PRESENT ARE MY COURTROOM
17 DEPUTY, DIANA MUNZ, AND COURT REPORTER
18 SUMMER FISHER.

19 AND I HAVE GIVEN MS. SMALL PERMISSION TO
20 MAKE A CONTEMPORANEOUS RECORDING OF THESE
21 PROCEEDINGS.

22 WE ALSO HAVE A PRESS POOL WHERE FIVE
23 MEMBERS OF THE MEDIA ARE REPRESENTING THE MEDIA AS
24 A WHOLE IN COVERING THE PROCEEDINGS.

25 I'VE EXCLUDED TELEPHONE AND CAMERAS UNDER

1 THE PREVAILING GUIDANCE FROM THE SUPREME COURT AND
2 THE NINTH CIRCUIT.

3 SO LET ME TELL YOU HOW I WOULD LIKE TO
4 PROCEED. I ACTUALLY DID AN INFORMAL WALK-THROUGH
5 JUST ON MY OWN WHILE EVERYONE WAS ARRIVING.

6 I WOULD LIKE TO GO THROUGH THE ROOMS ONE
7 BY ONE AND HAVE SOMEONE FROM CDCR EXPLAIN WHAT IT
8 IS WE ARE SEEING, PERHAPS ASK A QUESTION OR TWO.

9 I DON'T INTEND TO MAKE ANY SUBSTANTIVE
10 COMMENTS ABOUT ANYTHING, BUT I JUST WANT TO MAKE
11 SURE THAT I UNDERSTAND WHAT I'M SEEING.

12 AND IF COUNSEL FOR THE PARTIES BELIEVE
13 THAT THAT COLLOQUY HAS LEFT OUT ANYTHING THAT THEY
14 CONSIDER SIGNIFICANT, THEY MAY WANT TO INTERPOSE A
15 QUESTION AT THAT POINT.

16 BUT MY UNDERSTANDING IS THAT PLAINTIFF'S
17 COUNSEL ARE GOING TO HAVE AN OPPORTUNITY AFTER WE
18 HAVE THIS TOUR TO DO A SUBSEQUENT TOUR BASED ON THE
19 PENDING DISCOVERY REQUESTS.

20 SO THE COURT'S TOUR PROBABLY IS GOING TO
21 BE MORE LIMITED IN SCOPE AND MORE FOCUSED ON THE
22 QUESTIONS THAT THE COURT HAS.

23 SO THAT'S WHAT I EXPECT WE WILL DO. AND
24 PERHAPS WE COULD HAVE SOMEONE FOR THE CDCR EXPLAIN
25 WHERE WE ARE NOW AND WHAT IT IS THAT WE ARE SEEING.

1 MR. ROBINSON: OKAY. WHERE WE ARE NOW
2 IS -- LIEUTENANT SAM ROBINSON.

3 WHERE WE ARE NOW IS THE PRIMARY WITNESS
4 VIEWING ROOM. THIS ROOM IS PRIMARY FOR THE 12
5 OFFICIAL WITNESSES AND THE MEDIA.

6 THE COURT: ALL RIGHT.

7 AND SO, CAN THE WITNESSES -- I'M SORRY.
8 THE WITNESSES OBVIOUSLY CAN SEE INTO THE EXECUTION
9 CHAMBER. CAN THE PEOPLE INSIDE THE EXECUTION
10 CHAMBER SEE OUT?

11 MR. ROBINSON: YES, THEY CAN.

12 THE COURT: SO THIS IS TWO-WAY GLASS WE
13 ARE LOOKING AT?

14 MR. ROBINSON: YES, IT IS.

15 THE COURT: ALL RIGHT.

16 SO WHY DON'T WE MOVE TO THE NEXT ROOM.

17 MR. ROBINSON: THIS ROOM IS A WITNESS
18 ROOM FOR THE INMATE, THE PEOPLE WHO ARE AFFILIATED
19 WITH THE INMATE.

20 THE COURT: SO ON THIS SIDE OF THE
21 EXECUTION CHAMBER THERE IS AN ANTEROOM THAT PERMITS
22 THE PEOPLE SEATED IN THE ANTEROOM TO LOOK INTO THE
23 EXECUTION CHAMBER.

24 MY UNDERSTANDING IS THAT THE PAINTED
25 GLASS WE ARE LOOKING THROUGH NOW IS A ONE-WAY

1 GLASS; IS THAT CORRECT?

2 MR. ROBINSON: CORRECT.

3 THE COURT: BUT THERE'S ONE OFF TO THE
4 LEFT WHICH IS A TWO-WAY GLASS?

5 MR. ROBINSON: EXACTLY.

6 THE COURT: ALL RIGHT.

7 SO -- AND THIS SIDE THAT WE ARE ON, WHICH
8 I WOULD DESCRIBE AS THE SIDE TO THE RIGHT OF THE
9 PUBLIC VIEWING AREA AS YOU FACE THE CHAMBER, IS FOR
10 THE INMATE AND THE INMATE'S FAMILY?

11 MR. ROBINSON: THE INMATE AND THE
12 INMATE'S FAMILY, YES.

13 THE COURT: OKAY. THANK YOU. ALL RIGHT.

14 OKAY. WE NOW APPEAR TO BE STANDING IN A
15 ROOM THAT APPEARS TO CONNECT VARIOUS OTHER ROOMS.

16 LIEUTENANT ROBINSON, DOES THIS ROOM HAVE
17 ANY PARTICULAR SIGNIFICANCE?

18 MR. ROBINSON: THIS IS THE STAGING ROOM.
19 THIS IS THE AREA JUST BEFORE THE INMATE IS ESCORTED
20 INTO THE LETHAL INJECTION ROOM.

21 THE COURT: AND THERE'S A CLOCK ON THE
22 WALL, BUT OTHER THAN THAT THIS IS SIMPLY A PLACE
23 WHERE THINGS ARE ORGANIZED, SO BEFORE THE INMATE IS
24 BROUGHT IN.

25 MR. ROBINSON: EXACTLY.

1 THE COURT: ALL RIGHT.

2 AND THERE'S A TELEPHONE ON THE WALL. AND
3 I UNDERSTAND THAT'S JUST A STANDARD TELEPHONE, IT
4 DOESN'T HAVE ANY PARTICULAR SIGNIFICANCE?

5 MR. ROBINSON: EXACTLY.

6 THE COURT: ALL RIGHT.

7 SO WHERE WOULD YOU LIKE TO TAKE US NEXT?

8 MR. ROBINSON: LET'S GO THIS WAY.

9 THE COURT: OKAY.

10 WE APPEAR TO BE STANDING IN ANOTHER
11 ANTEROOM, AND IMMEDIATELY ADJACENT TO IT IS WHAT I
12 ASSUME IS THE HOLDING CELL FOR THE INMATE, CORRECT?

13 MR. ROBINSON: EXACTLY.

14 THIS IS THE HOLDING CELL WHERE THE INMATE
15 SPENDS APPROXIMATELY THE LAST SIX HOURS OF HIS
16 LIFE.

17 THE COURT: AND WHAT ELSE ARE WE SEEING
18 IN THE ROOM BESIDES THE HOLDING CELL?

19 MR. ROBINSON: BESIDES THE HOLDING CELL,
20 THE ROOM WE'RE ACTUALLY STANDING IN IS AN
21 ADDITIONAL STAGING AREA.

22 THERE'S A TELEPHONE THAT THE INMATE IS
23 ABLE TO UTILIZE HERE IN THIS FACILITY. THERE'S A
24 TELEVISION JUST BEYOND THE HOLDING CELL THAT THE
25 INMATE IS ABLE TO VIEW WHILE HE'S HERE IN THIS

1 AREA.

2 AND THERE ARE EQUIPMENT LOCKERS FOR OUR
3 STAFF WHICH HAS THE VARIOUS SECURITY EQUIPMENT THAT
4 OUR STAFF UTILIZES.

5 THE COURT: SO THE SILVER LOCKER WE'RE
6 LOOKING AT HERE IS NOT SOMETHING THAT CONTAINS
7 DRUGS OR INJECTION APPARATUS, IT'S SECURITY
8 EQUIPMENT?

9 MR. ROBINSON: IT'S SECURITY EQUIPMENT
10 FOR OUR STAFF, CORRECT.

11 THE COURT: AND WHAT ABOUT OVER HERE?
12 THERE'S ANOTHER PANEL OR TWO OF THINGS THAT ARE
13 LOCKED. WHAT'S IN THERE?

14 MR. ROBINSON: I DON'T KNOW EXACTLY
15 WHAT'S IN THERE.

16 THE COURT: OKAY. BUT AS FAR AS YOU
17 KNOW, IT DOESN'T HAVE ANYTHING TO DO WITH THE --

18 MR. ROBINSON: IT DOES NOT CONTAIN DRUGS;
19 NO, IT DOES NOT.

20 THE COURT: AND THE OTHER -- I ASSUME
21 THIS IS AN ELECTRICAL CIRCUIT BREAKER BOX, AND
22 WHAT'S BEYOND THAT?

23 MR. ROBINSON: AGAIN, ANOTHER ADDITIONAL
24 CIRCUIT BOX ALSO.

25 THE COURT: OKAY. ALL RIGHT.

1 MR. GRELE: IF I MAY, YOUR HONOR --
2 JOHN GRELE.

3 IF I MAY, IS THE RECORD AREA OVER THERE
4 WHERE THEY RECORD? IS THAT WHAT THAT AREA IS
5 BEHIND US WHERE THEY DO THEIR LOGS AND THINGS OF
6 THAT NATURE?

7 MR. ROBINSON: NOT THAT I'M AWARE OF.

8 THE COURT: SO THERE'S A COUCH AND A
9 TABLE. DO YOU KNOW, IS THAT FOR THE USE OF THE
10 STAFF?

11 MR. ROBINSON: THAT'S FOR THE USE OF THE
12 STAFF AS THEIR POSITION HERE IN THIS AREA.

13 THE COURT: ALL RIGHT.

14 GO AHEAD.

15 MR. GRELE: IF I MAY, IS THAT THE LOG
16 BOOK RIGHT HERE ON THE DESK BEHIND US WHERE THEY
17 ARE MAKING THE LOG ENTRIES FOR THEIR OBSERVATIONS
18 OF THE INMATE?

19 MR. ROBINSON: IT IS A LOG BOOK, BUT IN
20 TERMS OF ITS SPECIFICATION, I'M NOT SURE.

21 MR. MESSIEK: IT'S NOT.

22 THE COURT: CAN I GET YOUR APPEARANCE.

23 MR. MESSIEK: ERIC MESSIEK.

24 THE COURT: WE ARE LOOKING AT A GREEN LOG
25 BOOK. WHAT IS LOGGED IN THAT PARTICULAR LOG BOOK?

1 MR. MESSIEK: I DON'T KNOW, YOUR HONOR.

2 THE COURT: OKAY.

3 ALL RIGHT. I NOTICED WHEN YOU OPENED IT
4 THERE AT THE TOP OF THE PAGE, THAT ISOLATION LOG,
5 PERHAPS IT'S SOME TYPE OF WAY OF TRACKING THE
6 MOVEMENTS. IS THAT --

7 MR. MESSIEK: THIS IS A STANDARD
8 ISOLATION -- 114 ISOLATION LOG IS USED IN ALL
9 MAXIMUM SECURITY HOUSING TO RECORD MOVEMENT OF THE
10 INMATE.

11 THE COURT: SO IT'S NOT RELATED TO THE
12 EXECUTION, IT'S RELATED TO THE MOVEMENT OF THE
13 PRISONER?

14 MR. MESSIEK: CORRECT.

15 THE COURT: OKAY. THANK YOU.

16 MR. ROBINSON: OKAY.

17 THE COURT: OKAY.

18 MR. ROBINSON: NOW ADJACENT TO THE
19 HOLDING FACILITY IS A STAGING AREA FOR THE CHAPLAIN
20 WHO IS ALLOWED TO REMAIN BACK HERE WITH THE INMATE
21 PRIOR TO THE EXECUTION.

22 THE COURT: DO YOU WANT TO TAKE US BACK
23 THERE, BECAUSE I SAW THERE WERE SOME -- AND I WOULD
24 WARN THE PARTY HERE, IT'S A SMALL AREA BACK THERE
25 BUT THERE'S SIGNIFICANT THINGS TO SEE.

1 THANKS FOR MOVING THE CHAIR.

2 IT'S GOING TO BE A LITTLE CROWDED, BUT I
3 DO NOT KNOW HOW MANY OF YOU WANT TO BE IN TO SEE
4 THIS.

5 OKAY. SO LIEUTENANT, WE ARE IN A SMALL
6 ROOM WITH LOCKERS AND A GURNEY. COULD YOU EXPLAIN
7 ANY SIGNIFICANCE OF THAT TO US.

8 MR. ROBINSON: WELL, THIS IS A STAGING
9 AND THIS IS A STORAGE AREA. ALSO INSIDE OF THE
10 STORAGE AREA IS A GURNEY THAT'S UTILIZED TO REMOVE
11 THE INMATE'S REMAINS AFTER THE EXECUTION.

12 THERE'S A SERIES OF THREE LOCKERS HERE.
13 INSIDE THE LOCKERS ARE JUST ADDITIONAL EQUIPMENT
14 FOR OUR EXECUTION TEAM.

15 THE COURT: ALL RIGHT.

16 SO THIS GURNEY IS USED AFTER THE
17 COMPLETION OF THE EXECUTION?

18 MR. ROBINSON: YES, SIR.

19 THE COURT: ALL RIGHT. OKAY. THANK YOU.

20 MR. GRELE: IF I MAY.

21 THE COURT: I'M SORRY, MR. GRELE.

22 MR. GRELE: DO YOU KNOW WHERE THE
23 PHOTOGRAPH OF THE INMATE TAKES PLACE AFTER THE
24 EXECUTION?

25 MR. ROBINSON: NO, I DO NOT.

1 THE COURT: AND THERE ARE SOME OF THESE
2 QUESTIONS THAT I'M SURE PLAINTIFF'S COUNSEL CAN
3 FOLLOW UP ON AFTER WE FINISH THE COURT'S TOUR, SO
4 THAT MIGHT BE ONE OF THEM.

5 OKAY.

6 LET ME JUST TELL PEOPLE, THERE'S NO WAY
7 WE'RE ALL GOING TO FIT INTO THIS LITTLE ROOM HERE,
8 SO PERHAPS PEOPLE CAN JUST COME BY AND LOOK AT IT
9 IN SMALLER GROUPS, BUT WE CAN GET A DESCRIPTION OF
10 WHAT THIS ROOM IS FROM LIEUTENANT ROBINSON.

11 MR. ROBINSON: INSIDE OF THIS STORAGE
12 ROOM IS ADDITIONAL EQUIPMENT THAT OUR EXECUTION
13 TEAM UTILIZES ALL OF THE -- OUR NUMEROUS -- I DON'T
14 EVEN KNOW -- SURGICAL TAPE, JUST ADDITIONAL ITEMS
15 THAT THEY UTILIZE TO PREPARE THE INMATE PRIOR TO
16 THE EXECUTION.

17 THE COURT: MY UNDERSTANDING OF WHAT I'M
18 LOOKING AT IS THIS IS -- THERE ARE NO DRUGS IN THIS
19 ROOM.

20 THIS IS NOT WHERE ANY OF THE EXECUTION
21 DRUGS ARE KEPT, BUT IT IS WHERE EQUIPMENT THAT'S
22 UTILIZED IN THE EXECUTION IS KEPT INCLUDING
23 SYRINGES, WATER FOR MIXING POWDERED CHEMICALS,
24 SURGICAL MASKS, WASTE BASKETS, THINGS OF THAT SORT
25 THAT ARE USED AS NECESSARY PHYSICAL IMPLEMENTS TO

1 CARRY OUT AN EXECUTION; IS THAT A FAIR STATEMENT?

2 MR. ROBINSON: THAT IS A FAIR STATEMENT.

3 THE COURT: LET ME GET OUT AND WATCH AND
4 LET ANYBODY WHO WANTS TO LOOK IN SEE WHAT'S IN
5 HERE.

6 OKAY. WHY DON'T WE MOVE ON TO THE NEXT
7 ROOM THEN. THANK YOU.

8 FOR THE RECORD, WE ARE LOOKING INTO A
9 RELATIVELY SMALL OFFICE WHICH IS OFF THE ANTEROOM
10 WE WERE IN EARLIER.

11 IN THE OFFICE ARE COMPUTERS AND STORAGE
12 AREAS, A SINK, A COPIER, A TELEPHONE, AND I TAKE IT
13 THIS IS FOR ADMINISTRATIVE PURPOSES ONLY?

14 MR. ROBINSON: CORRECT.

15 THE COURT: OKAY. THANK YOU.

16 AND FOR THE RECORD, THERE'S ANOTHER SMALL
17 ROOM WHICH APPEARS TO BE A PLACE WHERE STAFF CAN
18 KEEP DRINKS OR FOOD OR WHATEVER. IT'S GOT A
19 MICROWAVE AND A SMALL REFRIGERATOR AND A SINK.

20 SO I TAKE IT THIS IS FOR THE COMFORT OF
21 THE PRISON STAFF?

22 MR. ROBINSON: CORRECT.

23 THE COURT: OKAY.

24 ALL RIGHT. OKAY. LIEUTENANT, DO YOU
25 WANT TO DESCRIBE THIS ROOM TO US.

1 MR. ROBINSON: THIS IS THE INFUSION ROOM
2 FOR THE INJECTION.

3 INSIDE THE INFUSION ROOM ARE A SERIES OF
4 TELEPHONES. THERE ARE PORTS, AND THE LINES RUN
5 THROUGH AND ARE CONNECTED TO THE INMATE.

6 OVER IN THE FAR RIGHT CORNER THERE'S A
7 SAFE. ALSO ADJACENT TO THE SAFE IS A LOCKED CAGE
8 WITH A REFRIGERATOR INSIDE OF IT, CABINETS, AND
9 SOME MEDICAL -- I DON'T KNOW THE CORRECT
10 PRONUNCIATION OR DEFINITION OF IT -- SOME MEDICAL
11 MONITORS TO SCREEN THE INMATE.

12 THE COURT: JUST TO FOLLOW UP A LITTLE
13 BIT.

14 SO THE TELEPHONES ARE FOR LAST MINUTE
15 CALLS FROM -- JUST FOR THE RECORD, THERE'S ONE FROM
16 THE GOVERNOR, THE WARDEN, THE SUPREME COURT AND THE
17 ATTORNEY GENERAL.

18 SO THAT'S IF THERE ARE ANY LAST MINUTE
19 ORDERS FROM ANY OF THOSE SOURCES HAVING TO DO WITH
20 THE EXECUTION, CORRECT?

21 MR. ROBINSON: CORRECT.

22 THE COURT: SO THESE ARE ESSENTIALLY HOT
23 LINES FOR THOSE TYPES OF COMMUNICATIONS, CORRECT?

24 MR. ROBINSON: CORRECT.

25 THE COURT: ALL RIGHT.

1 AND THEN THE PORTS THAT YOU DESCRIBED, IN
2 THE OLD EXECUTION CHAMBER THERE WERE HOLES DRILLED
3 IN THE SIDE OF THE GREEN GAS CHAMBER THAT THE IV
4 LINES WERE PASSED THROUGH.

5 IF THIS WERE AN ACTUAL EXECUTION THERE
6 WOULD BE INTERVENOUS LINES GOING FROM THIS ROOM
7 THROUGH THOSE PORTS INTO THE EXECUTION CHAMBER,
8 CORRECT?

9 MR. ROBINSON: CORRECT.

10 THE COURT: ALL RIGHT.

11 AND JUST ROUGHLY, WE DIDN'T -- WE DON'T
12 HAVE ANY PRECISE MEASUREMENTS, BUT THE GURNEY
13 INSIDE THE EXECUTION CHAMBER IS IMMEDIATELY
14 ADJACENT TO THE WALL NEXT TO WHICH WE ARE STANDING,
15 SO THAT THE LENGTH OF ANY INTERVENOUS LINES FROM
16 INSIDE THIS ROOM TO THE GURNEY ITSELF WOULD BE, I
17 THINK FAIR TO SAY -- AT LEAST FROM THE PORTS,
18 WITHOUT KNOWING HOW LONG THE LINES ARE, TO THE
19 PORTS FROM INSIDE THE ROOM FROM THE PORTS TO THE
20 GURNEY, WOULD BE ANYWHERE FROM 2 TO 8 FEET, I WOULD
21 THINK, AT THE MOST.

22 MR. ROBINSON: EXACTLY.

23 THE COURT: DOES THAT SOUND RIGHT?

24 MR. ROBINSON: EXACTLY.

25 THE COURT: AND THEN COULD YOU TELL US

1 ABOUT THE SAFE AND WHAT'S ACTUALLY IN THE SAFE.

2 MR. ROBINSON: THE SAFE IS WHERE
3 MEDICATION IS STORED. EXACTLY WHAT'S INSIDE OF THE
4 SAFE RIGHT NOW, I DON'T HAVE THE ANSWER.

5 THE COURT: BUT ASSUMING THAT WE'RE USING
6 THE THREE DRUGS THAT ARE PART OF THE CURRENT
7 EXECUTION PROTOCOL, WOULD THEY ALL BE IN THERE OR
8 ARE THE EXECUTION DRUGS KEPT SOMEWHERE ELSE?

9 MR. ROBINSON: THEY ARE KEPT CURRENTLY IN
10 A COUPLE DIFFERENT PLACES.

11 THE COURT: OKAY.

12 MR. ROBINSON: THE DRUGS ARE KEPT IN THIS
13 LOCKED CABINET HERE.

14 THE COURT: OKAY.

15 MR. ROBINSON: AND THEN IN THE
16 REFRIGERATOR OVER THERE, DRUGS ARE KEPT ALSO.

17 THE COURT: SO IS IT CORRECT THAT ALL OF
18 THE EXECUTION DRUGS ARE EITHER IN THIS LARGER
19 LOCKED CABINET OR IN THE REFRIGERATED SAFE?

20 MR. ROBINSON: AS FAR AS I KNOW, RIGHT
21 NOW.

22 THE COURT: AS FAR AS YOU KNOW THEY ARE
23 NOT KEPT IN ANY OTHER ROOM OF THE PRISON OR PART OF
24 THE FACILITY?

25 MR. ROBINSON: EXACTLY. THEY ARE HERE.

1 THE COURT: AND THEN THE MONITORS YOU
2 INDICATED EARLIER, DO YOU KNOW WHAT TYPES OF
3 MONITORS THEY ARE?

4 MR. ROBINSON: I HAVE AN IDEA OF WHAT
5 TYPE OF MONITORS THEY ARE. THEY ARE FOR ACCESSING
6 THE VITALS OF THE INMATE AS THE EXECUTION IS
7 PROCEEDING.

8 THE COURT: SO I'M MAKING AN ASSUMPTION,
9 I'M NOT A DOCTOR BUT I'VE SEEN A FEW CASES IN THE
10 PAST WHERE THESE THINGS COME TO LIGHT.

11 THERE'S A -- ON ONE OF THE MONITORS
12 THERE'S AN INDICATION FOR SYSTOLIC AND DIASTOLIC, I
13 ASSUME THAT HAS SOMETHING TO DO WITH THE BLOOD
14 PRESSURE OF THE INMATE.

15 SO I TAKE IT THESE SIGNS, THESE MONITORS,
16 MONITOR THE VITAL SIGNS OF THE INMATE, AT LEAST
17 SOME VITAL SIGNS OF THE INMATE; DOES THAT SOUND
18 RIGHT?

19 MR. ROBINSON: THAT SOUNDS CORRECT.

20 THE COURT: THERE'S A BOX ON THE WALL
21 THAT SAYS "NOTIFIER" ON IT; DO YOU KNOW WHAT THAT
22 IS?

23 MR. ROBINSON: IT'S ACTUALLY A FIRE
24 ALARM.

25 THE COURT: ALL RIGHT.

1 DOES ANYONE ELSE HAVE ANY QUESTIONS?

2 MR. KRISHNAN: YOUR HONOR, AJAY KRISHNAN
3 FOR PACIFIC NEWS SERVICE.

4 THERE'S A SAFE AND REFRIGERATOR BACK
5 HERE. WAS THE STATEMENT THAT DRUGS ARE KEPT IN
6 BOTH THE SAFE AND THE REFRIGERATOR OR JUST THE
7 REFRIGERATOR?

8 MR. ROBINSON: WHAT I SAID IS THE DRUGS
9 ARE KEPT IN THE REFRIGERATOR AND IN THIS LOCKED
10 CABINET HERE.

11 MR. KRISHNAN: NOT IN THE SAFE?

12 MR. ROBINSON: I DON'T KNOW WHAT'S IN THE
13 SAFE.

14 THE COURT: I THINK WHAT THE LIEUTENANT
15 SAID WAS THAT ALL OF THE DRUGS ARE KEPT IN ONE OF
16 THE CONTAINERS OF THIS ROOM. HE DOES NOT KNOW OF
17 HIS OWN PERSONAL KNOWLEDGE WHICH DRUGS ARE IN WHICH
18 CONTAINER.

19 MR. GRELE: IS THERE ANY WAY TO LOOK IN
20 AND SEE IF THE DRUGS ARE THERE?

21 THE COURT: NOT AT THIS PHASE, MR. GRELE.

22 IF YOU WANT TO PURSUE THAT AFTERWARDS
23 WHEN YOU HAVE YOUR DISCOVERY MEETING WITH
24 DEFENDANTS, THAT'S SOMETHING YOU CAN TAKE UP WITH
25 THEM.

1 MR. GRELE: IT'S JUST A MATTER OF THE
2 RECORD, YOUR HONOR.

3 THE COURT: I UNDERSTAND.

4 MR. GRELE: I DON'T KNOW IF WE WILL HAVE
5 A RECORD OF OUR TOUR.

6 THE COURT: I SEE. AND YOU WANT TO MAKE
7 A RECORD THAT THE -- WHICH DRUGS ARE IN WHICH
8 PLACE?

9 MR. GRELE: EXACTLY. AND IF WE COULD,
10 HOW MUCH.

11 THE COURT: LET'S DEFER TO COUNSEL FOR --

12 MR. GOLDMAN: JAY GOLDMAN FOR DEFENDANTS.

13 ALL THE DRUGS ARE KEPT IN THIS ROOM.
14 IT'S ALREADY ON THE RECORD.

15 THE COURT: AND I BELIEVE THE STATE JUST
16 FILED A REPRESENTATION THIS WEEK AS TO THE CURRENT
17 QUANTITY OF THIOPENTAL, CORRECT?

18 MR. QUINN: IT WAS WITHIN THE PAST TWO OR
19 THREE WEEKS.

20 THE COURT: WE KNOW WHAT THE CURRENT
21 AMOUNT IS.

22 MR. GOLDMAN: ALL RIGHT.

23 THE COURT: ANY THIOPENTAL THE STATE HAS
24 IS IN THIS ROOM.

25 MR. GOLDMAN: RIGHT.

1 MR. GRELE: SO MY QUESTION IS: IT
2 DOESN'T GO TO THE PHARMACY AT ALL, IT JUST GO RIGHT
3 HERE WHEN YOU GET IT FROM THE DISTRIBUTOR?

4 MR. ROBINSON: I DON'T HAVE THAT ANSWER.

5 MR. GRELE: BECAUSE WE GOT SOME PHARMACY
6 LOGS YESTERDAY AND THEY DON'T RAISE THESE
7 QUESTIONS. THAT'S WHY I'M ASKING THE QUESTIONS
8 BECAUSE THEY DON'T SAY WHERE THE DRUGS ARE AND THE
9 TRAINING LOGS DON'T HAVE ANY TRAINING OF THE DRUGS.

10 THE COURT: THAT'S AN ISSUE WE'LL ADDRESS
11 AT ANOTHER TIME.

12 THE LAST ISSUE I SAW FROM THE STATE, AND
13 COUNSEL CORRECT ME IF I'M MISSTATING ANYTHING, IS
14 THERE WAS X QUANTITY OF THIOPENTAL, A SIGNIFICANT
15 AMOUNT, AND THEN SIX MILLIGRAMS OR SO WERE TAKEN
16 OUT FOR TRAINING; IS THAT CORRECT?

17 MR. QUINN: FOR TESTING.

18 THE COURT: NOT FOR TRAINING, BUT FOR
19 TESTING.

20 SO THERE'S 114 OR SOMETHING LEFT?

21 MR. QUINN: I THINK IT'S 514.

22 THE COURT: 514. OKAY.

23 BUT YOU HAD A SIGNIFICANT AMOUNT THAT THE
24 STATE OBTAINED LAST FALL AND SIX MILLIGRAMS,
25 APPROXIMATELY OF THAT, WAS TAKEN OUT AND USED FOR

1 TESTING?

2 MR. QUINN: RIGHT. SIX GRAMS OUT OF THE
3 521. SO I THINK WE HAVE ABOUT 514 AND 1/2 GRAMS.

4 THE COURT: OKAY. I KEEP SAYING
5 MILLIGRAMS, BUT IT'S SIX GRAMS THAT WERE TAKEN OUT
6 OR SIX MILLIGRAMS?

7 MR. KOLOMBATOVICH: GRAMS.

8 THE COURT: THAT'S AN IMPORTANT
9 DIFFERENCE.

10 MR. GRELE: I'M SORRY, YOUR HONOR.

11 THE COURT: GO AHEAD, MR. GRELE.

12 MR. GRELE: MY QUESTION WAS: SO ALL THAT
13 DRUG IS ACTUALLY HERE, NOT IN THE PHARMACY, AND IF
14 WE ASK FOR IT WE SHOULD BE ABLE TO FIND IT IN THIS
15 ROOM?

16 MR. QUINN: THE DRUG IS HERE.

17 THE COURT: ALL RIGHT. I THINK WE'VE
18 COVERED THAT ISSUE.

19 MR. GRELE: IF I --

20 THE COURT: I HAD ANOTHER QUESTION.

21 ARE WE STILL ON THE DRUGS OR DO YOU HAVE
22 A DIFFERENT QUESTION?

23 MR. GRELE: I'M OFF THE DRUGS,
24 YOUR HONOR.

25 THE COURT: ALL RIGHT.

1 I WILL LEAVE THAT ONE RIGHT THERE.

2 THE NEXT QUESTION I HAD ACTUALLY HAD TO
3 DO WITH THE IV LINES. AND IF YOU DON'T KNOW,
4 THAT'S FINE, WE CAN ESTABLISH THIS SOME OTHER WAY.

5 BUT FROM THE INSIDE OF THIS ROOM IN WHICH
6 WE ARE STANDING, WHAT WOULD THE APPROXIMATE LENGTH
7 OF THE IV LINES BE TO THE PORTS?

8 MR. ROBINSON: FROM WHERE WE'RE STANDING
9 RIGHT NOW?

10 THE COURT: FROM WHEREVER IN THE ROOM THE
11 IV LINES ARE SET.

12 MR. ROBINSON: THE IV LINES ARE
13 POSITIONED IN THIS AREA HERE ON THE SHELF.

14 THE COURT: ON THE SHELF?

15 MR. ROBINSON: ON THE SHELF.

16 THE COURT: OKAY.

17 MR. ROBINSON: SO YOU ARE TALKING ABOUT A
18 MATTER OF INCHES FROM THE SHELF TO THE PORT.

19 THE COURT: SO IT'S NOT OUT IN THE ROOM
20 WHERE ALL OF US ARE STANDING, THE IV, THE SOURCE OF
21 THE INJECTED FLUID IS ON THIS SHELF?

22 MR. ROBINSON: EXACTLY.

23 THE COURT: AND THE SHELF IS ADJACENT TO
24 THE WALL AND THE GURNEY IS ADJACENT TO THE OTHER
25 SIDE OF THE WALL.

1 MR. ROBINSON: EXACTLY.

2 THE COURT: SO THE MAXIMUM DISTANCE TO
3 THE INMATE'S ARMS FROM WHERE WE ARE STANDING WOULD
4 BE NO MORE THAN 5 OR 6 FEET; IS THAT A CORRECT
5 STATEMENT THAT YOU AGREE WITH?

6 MR. ROBINSON: YES, I WOULD AGREE.

7 MR. KOLOMBATOVICH: I HAVE A QUESTION.
8 WHAT ARE THESE HOOKS FOR?

9 MR. ROBINSON: FOR THE SALINE BAGS.

10 THE COURT: FOR THE BAGS.

11 SO THE SALINE BAGS ARE ON THE HOOKS ABOVE
12 THIS VIEWING WINDOW AND THEN THE IV LINES GO JUST
13 OUTSIDE OF THE PORT, THROUGH THE PORT, INTO THE
14 INSIDE OF THE EXECUTION CHAMBER WHERE WE ARE GOING
15 TO GO SHORTLY?

16 MR. ROBINSON: EXACTLY.

17 MR. SENIOR: DAVE SENIOR.

18 DOES THE GURNEY ROTATE LIKE IN PRIOR
19 EXECUTIONS OR DOES IT STAY IN THAT POSITION?

20 MR. ROBINSON: IT'S STATIONARY. IT
21 HAS -- YOU HAVE THE ABILITY TO MOVE IT BUT IT
22 DOESN'T ROTATE.

23 MR. SENIOR: IS THAT ANOTHER PORT DOWN
24 THERE?

25 THE COURT: FOR THE RECORD, THERE ARE, I

1 BELIEVE, FOUR PORTS. THERE ARE TWO ABOVE THE SHELF
2 AND THERE ARE TWO BELOW THE SHELF.

3 MR. GRELE: DO YOU KNOW WHAT THEY ARE
4 FOR, THE OTHER ONES?

5 MR. ROBINSON: THE LOWER PORTS, I DON'T
6 KNOW.

7 MR. GRELE: DO YOU KNOW WHAT TYPE OF
8 RIGGING DEVICE IS SET UP HERE FOR THE
9 ADMINISTRATION OF THE DRUGS, FOR THE ACTUAL
10 INJECTION?

11 MR. ROBINSON: NO.

12 MR. GRELE: IS IT A LUER LOCK DEVICE LIKE
13 IT WAS PREVIOUSLY, OR DO YOU HAVE ANY IDEA?

14 MR. ROBINSON: I DON'T KNOW.

15 MR. GRELE: THE LAST TOUR WE ACTUALLY HAD
16 AN OPPORTUNITY TO SEE THE RIGGING.

17 THE COURT: THERE WAS ACTUALLY A TRAY
18 PREPARED, AS FAR AS FOR AN EXECUTION, THAT WE WERE
19 ABLE TO SEE WHICH THERE IS NOT TODAY.

20 BUT DO YOU KNOW, AND PERHAPS WE CAN REFER
21 TO OTHERS WITHIN CDCR, WHETHER THERE'S BEEN ANY
22 CHANGE IN THAT ASPECT OF THE PROTOCOL?

23 MR. ROBINSON: I DON'T KNOW.

24 THE COURT: ALL RIGHT. WE WILL HAVE TO
25 LOOK AT THAT ANOTHER TIME.

1 MR. GRELE: AS LONG AS WE HAVE AN
2 OPPORTUNITY AT SOME POINT, YOUR HONOR, TO SEE THE
3 ACTUAL RIGGING, THAT WOULD BE HELPFUL.

4 THE COURT: IT'S IMPORTANT BECAUSE THAT
5 WAS A SIGNIFICANT PART OF THE PROTOCOL, BUT WE
6 AREN'T SEEING IT TODAY. WE WILL HAVE TO DEAL WITH
7 IT LATER.

8 MR. KRISHNAN: ON THE SHELF ABOVE THE
9 SAFE THERE'S ELECTRICAL EQUIPMENT AND A MICROPHONE.
10 I JUST WANTED TO ASK WHAT THIS WAS FOR.

11 THE COURT: OKAY. LIEUTENANT, DO YOU
12 HAVE ANYTHING TO SAY ON THAT?

13 MR. ROBINSON: THE ELECTRICAL EQUIPMENT
14 IS A PA SYSTEM. IT'S UTILIZED FOR A COUPLE
15 PURPOSES.

16 ONE, THE INMATE IS ALLOWED THE
17 OPPORTUNITY TO MAKE A LAST STATEMENT.

18 AND SECONDLY, AT THE CONCLUSION OF THE
19 EXECUTION A STATEMENT IS MADE STATING THAT THE
20 EXECUTION HAS CONCLUDED.

21 MR. GRELE: THAT'S THE WARDEN'S
22 STATEMENT?

23 MR. ROBINSON: I DON'T WHOSE STATEMENT
24 THAT IS.

25 MR. MESSIEK: ALSO, IT'S USED TO READ THE

1 WARRANT, THE DEATH WARRANT.

2 THE COURT: SO ALL THE OFFICIAL
3 COMMUNICATIONS THAT ARE REQUIRED BY LAW FOR AN
4 EXECUTION ARE DONE THROUGH THAT SYSTEM?

5 MR. MESSIEK: YES, YOUR HONOR.

6 MR. GRELE: IF I MAY, IT'S JUST THE
7 MICROPHONE GOING INTO THE ROOM, INTO THE INJECTION
8 ROOM, DURING THE EXECUTION FOR THE STATEMENT?

9 MR. ROBINSON: THERE IS WIRELESS
10 MICROPHONE THAT IS POSITIONED.

11 MR. GRELE: THAT'S THE ONE IN THE
12 PROTOCOL THAT GETS TURNED OFF AFTER THE STATEMENT?

13 MR. ROBINSON: YES.

14 THE COURT: ALL RIGHT.

15 MR. SENIOR: CAN WE PUT ON THE RECORD HOW
16 MANY PEOPLE ARE IN THE ROOM RIGHT NOW.

17 THE COURT: OH, SURE.

18 I'VE GOT TO COUNT FIRST. IT'S IN EXCESS
19 OF 20. I DON'T KNOW IF YOU WANT TO --

20 MR. SENIOR: 21?

21 THE COURT: DOES THAT SOUND RIGHT?

22 MR. SENIOR: 23.

23 THE COURT: THAT'S HOW MANY PEOPLE COULD
24 BE IN THE ROOM, AND THE PROTOCOL SPECIFIES HOW MANY
25 PEOPLE ARE IN THE ROOM, CORRECT?

1 MR. ROBINSON: CORRECT.

2 THE COURT: ALL RIGHT. OKAY.

3 MR. GRELE: DO YOU HAPPEN TO KNOW WHERE
4 THEY ARE POSITIONED --

5 MR. ROBINSON: NO, I DO NOT.

6 MR. GRELE: -- WHEN THEY ARE IN THE ROOM?

7 MR. SENIOR: WILL THERE BE A TRAY IN HERE
8 WITH SYRINGES ON IT? A MOVING TRAY?

9 MR. ROBINSON: THERE WILL BE A TRAY IN
10 HERE FOR THE EXECUTION, YES.

11 MR. SENIOR: SIMILAR TO THAT TRAY WITH
12 THE WHEEL THAT WE SAW LAST TIME?

13 MR. ROBINSON: I DON'T KNOW WHAT YOU SAW
14 LAST TIME.

15 THE COURT: I THINK THE PROBLEM, AND I
16 THINK WE NEED TO BE CAREFUL ABOUT THIS, IS THERE
17 WAS A SPECIFIC PHYSICAL TRAY WITH SPECIFIC PHYSICAL
18 ATTRIBUTES THAT WE SAW THE LAST TIME WE TOURED.

19 AND I DON'T THINK WE SHOULD BE PRESUMING
20 WHAT IT WOULD LOOK LIKE. I THINK THAT'S SOMETHING
21 WE WILL NEED TO DEVELOP THE RECORD ON AT SOME
22 POINT.

23 MR. KRISHNAN: YOUR HONOR, I JUST HAVE
24 ONE LAST QUESTION WHICH IS THE MICROPHONE THAT'S IN
25 THIS ROOM RIGHT NOW, IS THAT THE SAME AS THE

1 MICROPHONE THAT THE INMATE SPEAKS INTO FOR THE LAST
2 STATEMENT OR IS THAT A SEPARATE MICROPHONE?

3 MR. ROBINSON: IT'S A SEPARATE
4 MICROPHONE.

5 MR. GRELE: AND ONE LAST QUESTION.

6 WHAT IS THE LIGHTING WHEN THE EXECUTION
7 IS TAKING PLACE? WHAT DOES IT LOOK LIKE?

8 MR. ROBINSON: I DON'T KNOW.

9 THE COURT: SO RIGHT NOW I THINK IT'S
10 FAIR TO SAY THIS ROOM IS BRIGHTLY LIT FLUORESCENT
11 LIGHTS.

12 IS THE PROTOCOL, AND PERHAPS I COULD ASK
13 COUNSEL THIS, DOES THE PROTOCOL HAVE ANY PROVISION
14 IN IT FOR THE AMOUNT OF LIGHTING; AND HENCE, THE
15 AMOUNT OF VISIBILITY THAT THE FOLKS WORKING IN THIS
16 ROOM WOULD HAVE?

17 MR. QUINN: I DON'T RECALL IT. I WOULD
18 HAVE TO GO BACK AND LOOK.

19 THE COURT: ARE THERE DIMMER SWITCHES IN
20 HERE?

21 MR. GOLDMAN: ALL THE LIGHT SWITCHES ARE
22 RIGHT THERE.

23 THE COURT: JUST, IT APPEARS THAT THE
24 LIGHTS IN THIS ROOM HAVE TWO SETTINGS, ON AND OFF.

25 OH, THERE IS A DIMMER. THANK YOU VERY

1 MUCH.

2 SO THE LIGHTS IN THIS ROOM CAN BE DIMMED
3 AND WE WOULD NEED TO DEFER TO THE PROTOCOL TO
4 DETERMINE WHAT GUIDANCE THERE IS IN THERE AS TO
5 THE --

6 MR. GRELE: YOUR HONOR -- I'M SORRY
7 YOUR HONOR.

8 I DON'T THINK THE PROTOCOL REFERS TO IT
9 ONE WAY OR THE OTHER.

10 SO DOES ANYBODY KNOW?

11 MR. QUINN: LIKE I SAID, I DON'T RECALL
12 IF IT SAYS ANYTHING.

13 THE COURT: SO IT'S ANOTHER QUESTION FOR
14 ANOTHER DAY.

15 BUT THE LIGHTS IN THIS ROOM ARE CAPABLE
16 OF BEING DIMMED AND WE DON'T KNOW WHAT THE PROTOCOL
17 DOES OR DOESN'T REQUIRE.

18 MR. SENIOR: YOUR HONOR, IS THAT ONE-WAY
19 OR TWO-WAY GLASS?

20 THE COURT: THIS IS ONE-WAY GLASS.

21 AND I'M GOING TO MAKE AN ASSUMPTION,
22 PLEASE CORRECT ME IF I'M WRONG, BUT ALL OF THE
23 GLASS THAT HAS SORT OF A BROWNISH TINT IS ONE-WAY
24 GLASS?

25 MR. ROBINSON: CORRECT.

1 THE COURT: IT APPEARS IN SEVERAL
2 DIFFERENT PLACES. AND IF IT DOESN'T HAVE THAT TINT
3 WE CAN ASSUME IT'S NOT ONE-WAY GLASS.

4 MR. ROBINSON: CORRECT.

5 MR. SENIOR: AND WHY IS THERE A CURTAIN
6 ON THAT WINDOW?

7 MR. ROBINSON: I DON'T KNOW.

8 THE COURT: SO THERE'S ONE ROOM THAT
9 CONNECTS -- THIS IS A WINDOW THAT LOOKS OUT ON THE
10 LARGE ANTEROOM AND THERE'S A CURTAIN.

11 OKAY. ANYTHING ELSE? ALL RIGHT. LET'S
12 MOVE ON THEN.

13 THANK YOU VERY MUCH.

14 MR. GRELE: MR. MASON, IS THERE A WAY YOU
15 CAN MEASURE THE DIMENSIONS OF THE WINDOW? WE CAN
16 PUT IT ON THE RECORD.

17 IS THAT POSSIBILITY, YOUR HONOR?

18 THE COURT: HOLD ON JUST A SECOND. IT
19 LOOKS LIKE A SQUARE.

20 MR. MASON: 21 AND 3/4.

21 21 AND 3/4 BY -- 19 -- NO, BY 20.

22 MR. GRELE: AND MR. MASON, IF YOU COULD
23 MEASURE FROM THE EDGE OF THE WINDOW FRONT TO THE
24 EDGE OF THE COUNTER, PLEASE.

25 MR. MASON: 29 DIAGONALLY. 18 -- ROUGHLY

1 19 FROM THE GLASS TO THE EDGE OF THE COUNTER, AND
2 15 AND 1/4 FROM THE WALL TO THE EDGE OF THE
3 COUNTER.

4 MR. GRELE: AND FROM THE FLOOR TO THE
5 COUNTERTOP, PLEASE.

6 MR. MASON: 41 1/2.

7 THE COURT: 41 1/2. OKAY.

8 ALL RIGHT. WE ARE NOW IN THE EXECUTION
9 CHAMBER ITSELF. AND I'M JUST GOING TO GUESS THAT
10 THE -- I THINK THESE DIMENSIONS ARE IN THE RECORD
11 AT SOME POINT, BUT IT LOOKS LIKE IT'S ABOUT 30 FEET
12 WIDE AND -- THE OTHER DIMENSION IS SOMETHING MORE
13 ON THE ORDER OF 15 FEET; IS THAT CLOSE ENOUGH OR --
14 WE PROBABLY HAVE THAT SOMEWHERE, DO WE NOT?

15 MR. LAURENCE: MICHAEL LAURENCE WITH
16 HABEAS CORPUS RESOURCE CENTER.

17 THE PLAN SAYS 10 X 22.

18 THE COURT: ALL RIGHT, SO I WAS OVER
19 ESTIMATING.

20 SO IT'S 10 X 22, SO APPROXIMATELY 220
21 SQUARE FEET, SO IT'S NOT ENTIRELY RECTANGULAR.

22 LIEUTENANT, ANYTHING YOU WANT TO TELL US?

23 MR. ROBINSON: THIS IS THE LETHAL
24 INJECTION ROOM. IT'S THE GURNEY THAT THE INMATE IS
25 POSITIONED ON. TWO TRAYS AND A MICROPHONE ARE

1 SITTING ON THE GURNEY.

2 THE COURT: AND THE MICROPHONE IS SO THAT
3 THE INMATE CAN COMMUNICATE?

4 MR. ROBINSON: EXACTLY, AND CAN MAKE HIS
5 LAST STATEMENT.

6 THE COURT: ALL RIGHT.

7 AND WE'VE HAD TESTIMONY LONG AGO AS TO
8 EXACTLY WHAT HAPPENS, BUT THE -- CAN YOU JUST
9 EXPLAIN TO US WHAT THE DIFFERENT ASPECTS OF THE
10 GURNEY ARE USED FOR.

11 MR. ROBINSON: THERE'S A HEAD REST,
12 THERE'S A SERIES OF STRAPS THAT ARE UTILIZED TO
13 SECURE THE INMATE IN A COUPLE DIFFERENT AREAS, ONE
14 ACROSS THE UPPER TORSO, ACROSS THE WAIST, THE UPPER
15 LEGS AND THE LOWER LEGS, IN ADDITION TO A FEW ANKLE
16 STRAPS AT THE BASE OF THE GURNEY.

17 THERE ARE TWO ARM POSTS THAT ARE AFFIXED
18 TO THE GURNEY ALSO THAT ARE UTILIZED WITH SECONDARY
19 RESTRAINTS TO SECURE THE INMATE'S ARMS AND LEGS.

20 THE COURT: AND THE HOLES IN THE ARMRESTS
21 ARE FOR THE SECONDARY RESTRAINTS?

22 MR. ROBINSON: EXACTLY.

23 THE COURT: ALL RIGHT. AND THERE ARE
24 TWO, WHAT I WILL CHARACTERIZE AS SURGICAL TRAYS,
25 ONE ON EITHER SIDE OF THE GURNEY; AND WHAT ARE

1 THOSE USED FOR?

2 MR. ROBINSON: THOSE ARE UTILIZED BY OUR
3 INFUSION TEAM TO PREPARE THE INMATE.

4 THE COURT: THAT IS TO SET THE IV'S IN
5 THE INMATE'S VEIN?

6 MR. ROBINSON: SET THE IV AND THEIR
7 EQUIPMENT THAT THEY UTILIZE ION THIS ROOM.

8 THE COURT: AND UNDER THE NEW REGULATIONS
9 THERE ARE TWO IV'S USED?

10 MR. ROBINSON: YES.

11 THE COURT: ONE IS A BACKUP?

12 MR. ROBINSON: YES.

13 THE COURT: JUST AGAIN, LOOKING OUT THE
14 SMALL WINDOW IMMEDIATELY BEHIND WHERE THE INMATE'S
15 HEAD WOULD BE IS ONE-WAY, SO THE PEOPLE ON THE
16 OTHER SIDE OF THAT GLASS ARE IN THE INFUSION ROOM.

17 THE PEOPLE INSIDE THE EXECUTION CHAMBER
18 CANNOT SEE INTO THAT ROOM, CORRECT?

19 MR. ROBINSON: CORRECT.

20 THE COURT: AND THEN THE TWO LARGE
21 WINDOWS I WOULD SAY AT THE EXTREMES OF THE CHAMBER
22 WHERE ON ONE SIDE YOU HAVE THE INMATE'S FAMILY AND
23 ON THE OTHER SIDE I ASSUME YOU ARE GOING TO TELL
24 US, WE HAVEN'T BEEN THERE YET, BUT THAT'S WHERE THE
25 FAMILY AND LOVED ONES OF THE VICTIM ARE, THOSE ARE

1 ONE-WAY GLASS AS WELL, CORRECT?

2 MR. ROBINSON: CORRECT.

3 THE COURT: AND THEN THESE WINDOWS, THESE
4 THREE WINDOWS THAT FACE OUT -- ACTUALLY, IT'S MORE
5 THAN THREE. THERE'S FIVE ALL TOGETHER THAT FACE
6 OUT TO THE PUBLIC VIEWING AREA, THOSE ARE TWO-WAY
7 GLASS?

8 MR. ROBINSON: CORRECT.

9 MR. KRISHNAN: YOUR HONOR, I JUST WANTED
10 TO CLARIFY. I'M NOT SURE THE FIRST AND FIFTH
11 WINDOW ARE TO THE PUBLIC.

12 THE COURT: THEY ARE -- YOU ARE RIGHT,
13 MR. KRISHNAN.

14 TO BE SPECIFIC, THERE ARE FOUR LARGE
15 RECTANGULAR WINDOWS THAT FACE THE PUBLIC VIEWING
16 AREA WHICH ARE TWO-WAY GLASS.

17 THERE ARE TWO RECTANGULAR WINDOWS THAT
18 ARE AT AN ANGLE THAT FACE THE VIEWING AREAS WHERE
19 THE INMATE'S FAMILY AND THE VICTIM'S FAMILY ARE.

20 AND THEN THERE ARE TWO LARGER WINDOWS
21 PERPENDICULAR TO THE WINDOWS THAT FACE THE PUBLIC
22 VIEWING AREA THAT ARE ALSO FOR THE INMATE'S FAMILY
23 AND THE VICTIM'S FAMILY.

24 MR. ROBINSON: CORRECT.

25 THE COURT: HAVE I CORRECTLY DESCRIBED

1 THAT?

2 MR. ROBINSON: YES, YOUR HONOR.

3 MR. LAURENCE: YOUR HONOR,
4 MICHAEL LAURENCE.

5 THESE ARE APPARENTLY ONE-WAY WINDOWS BUT
6 WHEN THAT ROOM IS ILLUMINATED, THAT INFUSION ROOM
7 IS ILLUMINATED, YOU CAN SEE INTO IT. I CAN SEE THE
8 SINK.

9 THE COURT: YES.

10 IT IS KIND OF A MIXTURE OF REFLECTIVITY.

11 PERHAPS WE COULD DO A SMALL EXPERIMENT.

12 IF SOMEBODY WOULD TURN OFF THE LIGHTS IN THE
13 INFUSION ROOM OR DIM THEM.

14 ALL RIGHT. AND THE RECORD SHOULD
15 INDICATE THAT WITH THE LIGHTS DIMMED IN THE
16 INFUSION ROOM, THE GLASS IS TRULY ONE-WAY GLASS.
17 THERE'S NO -- I'M NOT SEEING ANYTHING THROUGH THERE

18 MR. ROBINSON: I AM.

19 MR. KOLOMBATOVICH: IT'S VERY CLEAR.

20 THE COURT: WELL, LET'S --

21 MR. GRELE: YOUR HONOR, IF I MAY.

22 I WOULD LIKE TO DO SOMETHING, IF
23 POSSIBLE. I ASSUME THE LIGHTS IN THE MAIN VIEWING
24 AREA ARE TURNED OFF DURING THE EXECUTION, THEY
25 ALWAYS HAVE BEEN.

1 IF WE COULD TURN THOSE LIGHTS OFF, THE
2 LIGHTS OFF IN THE INMATE AND THE VICTIM FAMILY
3 AREAS AND CLOSE THE DOOR, WE MIGHT HAVE A SENSE OF
4 WHAT IT LOOKS LIKE IN HERE DURING AN EXECUTION.

5 MR. GOLDMAN: YOUR HONOR, I'M NOT SURE AS
6 WE STAND HERE THAT THE LIGHTS IN THE WITNESS ROOMS
7 ARE TURNED ALL THE WAY OFF.

8 THE COURT: OKAY. IT DOES LOOK NOW
9 LIKE --

10 MR. GOLDMAN: I DON'T KNOW IF THAT WOULD
11 BE AN ACCURATE REPRESENTATION.

12 THE COURT: I'M NOT MAKING ANY ASSUMPTION
13 ABOUT THAT.

14 AT THE RISK OF MAKING THE SAME MISTAKE I
15 JUST MADE, I DON'T SEE INTO THE EXECUTION ROOM NOW.

16 DOES ANYONE DISAGREE?

17 MR. GRELE: NO, YOUR HONOR.

18 THE INFUSION ROOM IS ACTUALLY DARK.
19 THEY'VE TURNED THE LIGHTS OFF.

20 THE COURT: THEY'VE TURNED THE LIGHTS
21 OFF.

22 AND NOW WITH THE LIGHTS ON IN HERE AND
23 OFF IN THERE, YOU CANNOT SEE.

24 WOULD EVERYONE AGREE? OKAY.

25 MR. GRELE: JUST FOR THE RECORD,

1 YOUR HONOR, THE REPRESENTATION WAS IN PREVIOUS
2 EXECUTIONS THE VIEWING AREAS WERE DARK AND IT WAS
3 LIT IN HERE.

4 THE PROTOCOL IS NOT -- DOESN'T ADDRESS
5 THAT, BUT I ASSUME THAT WAS THE --

6 THE COURT: OKAY. WELL, SHOULD WE TRY TO
7 TURN THOSE LIGHTS OFF? IS THAT POSSIBLE, THE ONES
8 OUT IN THE -- ALL RIGHT. OKAY. ALL RIGHT THEN.

9 MR. KRISHNAN: I'M SORRY, YOUR HONOR.
10 WAS THE STATEMENT THERE'S NO ABILITY TO
11 TURN OFF THE LIGHTS IN THE VIEWING AREA OR THAT WE
12 JUST DON'T HAVE THAT ACCESS RIGHT NOW?

13 THE COURT: I DIDN'T UNDERSTAND WHAT THE
14 GENTLEMAN SAID, ACTUALLY.

15 MR. ROBINSON: YOUR HONOR, IF YOU DON'T
16 MIND. IF THE QUESTION IS, CAN WE TURN OFF THE
17 LIGHTS --

18 THE COURT: WE JUST GOT AN ANSWER. OKAY.

19 SO NOW THE LIGHTS ON THE OUTSIDE ARE OFF
20 AND YOU CAN STILL SEE OUTSIDE. IT DOESN'T SEEM TO
21 HAVE CHANGED ANYTHING IN HERE.

22 MR. LAURENCE: YOUR HONOR, WHILE I WAS IN
23 THE VIEWING ROOM I COULD NOT SEE WHAT WAS IN HERE.

24 THE COURT: SO THE REPRESENTATION IS THAT
25 SOMEONE OUTSIDE THE VIEWING ROOM -- SOMEONE IN THE

1 VIEWING AREA OUTSIDE THE EXECUTION CHAMBER CANNOT
2 HEAR WHAT'S TAKING PLACE IN THE EXECUTION CHAMBER?

3 MR. LAURENCE: CORRECT.

4 THE COURT: CAN I GET A STATEMENT FROM
5 ONE OF THE REPRESENTATIVES OF THE STATE IN TERMS OF
6 THE PEOPLE IN THE INFUSION ROOM.

7 CAN ONE HEAR WHAT'S TAKING PLACE IN THE
8 EXECUTION CHAMBER? IS THERE A MEANS FOR DOING
9 THAT?

10 MR. QUINN: MY UNDERSTANDING IS THEY ARE
11 HOOKED UP BY RADIO SO THEY CAN COMMUNICATE WITH
12 EACH OTHER. PLUS, I THINK THERE'S AN ABILITY IN
13 THE HOLES TO HEAR.

14 THE COURT: OKAY.

15 MR. QUINN: BUT THEY ARE HOOKED UP.

16 THE COURT: SO THIS ROOM IS NOT
17 SOUNDPROOF, IT IS POSSIBLE TO COMMUNICATE BETWEEN
18 THE CHAMBER AND THE INFUSION ROOM?

19 MR. QUINN: RIGHT.

20 MR. GOLDMAN: THEY HAVE RADIOS.

21 THE COURT: THEY HAVE RADIOS AS WELL. IT
22 CONNECTS EVERYONE.

23 MR. GOLDMAN: RIGHT.

24 MR. GRELE: WHAT I HAVE DONE HERE IS
25 TURNED OFF THE VIEWING LIGHTS, KEPT THE EXECUTION

1 CHAMBER LIGHT ON AND THE INFUSION TEAM LIGHT AS
2 WELL. I CAN SEE DOCTOR HEATH EXAMINING THINGS IN
3 THERE.

4 THE COURT: SO NOW THE LIGHT IS ON IN THE
5 INFUSION ROOM AS WELL AS IN THE EXECUTION CHAMBER
6 AND IT'S POSSIBLE TO SEE INTO THE INFUSION ROOM
7 NOTWITHSTANDING THE ONE-WAY MIRROR.

8 MR. KOLOMBATOVICH: I MIGHT ADD WHAT'S IN
9 THE INFUSION ROOM, IT'S QUIET IN THERE. ONE CANNOT
10 HEAR WHAT'S BEING SAID IN HERE, IT'S JUST MUFFLED
11 SOUND.

12 THE COURT: SO THE PRIMARY MEANS OF
13 COMMUNICATION BETWEEN THE TWO ROOMS IS THE RADIO?

14 MR. GOLDMAN: THAT'S CORRECT.

15 THE COURT: OKAY. ALL RIGHT.

16 MR. GRELE: IF MR. MASON COULD COME IN
17 HERE FOR A SECOND.

18 COULD YOU DO ME A FAVOR, COULD YOU
19 MEASURE FROM THE WALL TO THE LAST HOLE THERE. THE
20 GURNEY, ON THE ARM OF THE GURNEY.

21 MR. MASON: IT'S ABOUT 40 INCHES THE --
22 40 AND 3/4 INCHES TO THE OUTSIDE OF THE FURTHERMOST
23 RING.

24 MR. GRELE: IF YOU COULD MEASURE THE
25 DEPTH OF THE HOLE AS WELL, PLEASE. THE DEPTH OF

1 THE HOLE WHERE THE -- THE DEPTH.

2 MR. MASON: 6 1/2.

3 MR. GRELE: YOUR HONOR, BECAUSE WE
4 DON'T --

5 MR. MASON: LET ME MAKE SURE OF THAT. 6
6 AND 3/4.

7 THE COURT: 6 AND 3/4 FROM ONE END OF THE
8 HOLE TO THE OTHER?

9 MR. MASON: YES.

10 MR. GRELE: JUST FOR THE RECORD,
11 YOUR HONOR, PREVIOUSLY WE SAW THE RIGGING, SO WE
12 KNOW HOW THE TUBING LAID IN THIS ROOM. IT USUALLY
13 LAYS DOWN TO THE FLOOR THEN UP.

14 SO WE DON'T KNOW THE ACTUAL LENGTH OF
15 LINE AT THIS POINT BUT WE CAN GET A GOOD SORT OF
16 SIGHT FROM WALL TO ARM.

17 THE COURT: WE HAVE PARTIAL MEASUREMENTS.

18 MR. GRELE: DOES THE GURNEY, DURING AN
19 EXECUTION, THE HEAD RISE? DO THEY RISE UP THE
20 HEAD?

21 MR. ROBINSON: NO.

22 MR. GRELE: THEY KEEP IT FLAT? OKAY.

23 THE COURT: ANY OTHER QUESTIONS ABOUT THE
24 EXECUTION CHAMBER?

25 MR. GRELE: COULD WE MEASURE FROM THE

1 PORT TO THE HEAD, PLEASE.

2 MR. MASON: FROM OUTSIDE EDGE OF IT?

3 MR. GRELE: YEAH.

4 MR. MASON: OKAY. SO IT'S ABOUT 6 1/2,
5 6 1/4 INCHES FROM THE WALL.

6 MR. GRELE: OKAY.

7 MR. MASON: THEN ALL THE WAY TO THE -- TO
8 WHERE THE NECK WOULD BE, I ASSUME 17 1/2.

9 IN OTHER WORDS, FROM THE TOP OF THE --
10 LET'S SEE HERE. LET'S DO IT THIS WAY.

11 6 1/2 TO THE EDGE -- TO THE LEADING EDGE
12 OF THE HEADREST.

13 AND 11 1/4 OR SO IS THE LENGTH OF THE
14 HEADREST.

15 MR. GRELE: AND MR. MASON, IF YOU COULD
16 DO ONE MORE MEASUREMENT IN HERE FOR ME, AND THAT IS
17 FROM WALL TO FOOT ON THE GURNEY.

18 I THINK YOU SHOULD JUST LEAVE IT ON THE
19 GROUND.

20 MR. MASON: 80 INCHES, YEAH.

21 MR. GRELE: THANK YOU.

22 ARE THE RADIOS AVAILABLE AT ALL? I
23 DIDN'T SEE THEM IN HERE, ARE THEY KEPT SOMEWHERE
24 ELSE?

25 MR. ROBINSON: THEY ARE IN ONE OF THE

1 STORAGE ROOMS.

2 MR. GRELE: WE DON'T HAVE THE OPPORTUNITY
3 TO SEE HOW THOSE WORK TODAY, HOPEFULLY WE WILL HAVE
4 IT SOME OTHER TIME.

5 THE COURT: IT SOUNDS LIKE THERE ARE SOME
6 FOLLOWUP QUESTIONS COUNSEL MAY HAVE ABOUT THE
7 PLACEMENT OF LINES, THE TRAYS AND THE RADIOS AND SO
8 FORTH, BUT I DON'T THINK IT'S NECESSARY FOR TODAY'S
9 PURPOSES.

10 AND THEN I TAKE IT THE ONLY ROOM WE
11 HAVEN'T SEEN LIEUTENANT IS THE FAMILY VIEWING AREA?

12 MR. ROBINSON: EXACTLY.

13 THE COURT: ALL RIGHT. MAYBE WE COULD GO
14 TAKE A LOOK AT THAT.

15 MR. KRISHNAN: AJAY KRISHNAN FOR PNS.

16 ARE THE SECONDARY RESTRAINTS AVAILABLE
17 TODAY FOR INSPECTION?

18 MR. ROBINSON: I DON'T KNOW.

19 THE COURT: FOR THE BENEFIT OF THOSE WHO
20 ARE NOT LAWYERS IN THIS CASE, THERE IS AN ONGOING
21 DISCOVERY PROCESS, THAT IS WHERE THE PARTIES CAN
22 OBTAIN INFORMATION FROM EACH OTHER. IN FACT, THE
23 NEXT PROCEEDING IN THIS CASE IS GOING TO BE A
24 HEARING ON DISCOVERY MATTERS ON MARCH 4TH.

25 AND THROUGH THE DISCOVERY PROCESS ALL OF

1 THESE QUESTIONS THAT ARE UNANSWERED TODAY CAN BE
2 POSED AND THE PARTIES CAN HAVE INTERACTION ABOUT
3 THEM AND DECIDE WHETHER THEY CAN REACH SOME
4 AGREEMENT OR WEATHER THE COURT IS GOING TO HAVE TO
5 GET INVOLVED.

6 NOTHING WILL BE LEFT HANGING, WE JUST
7 AREN'T GOING TO DEAL WITH ALL OF THESE FINE POINTS
8 TODAY.

9 MR. KOLOMBATOVICH: JUDGE FOGEL, THERE'S
10 ALSO A STATUS CONFERENCE ON FRIDAY FOR DISCOVERY AS
11 WELL, THIS FRIDAY.

12 THE COURT: SO WE HAVE ACTUALLY A COUPLE
13 OF OPPORTUNITIES.

14 WHEN I SAY "WE," THE LAWYERS AND THE
15 COURT HAVE AN OPPORTUNITY TO WORK THROUGH THESE
16 DISCOVERY QUESTIONS. BUT I JUST WANTED THE NON
17 LAWYERS TO BE AWARE OF THE PROCESS WE'RE GOING TO
18 USE TO RESOLVE IT.

19 OKAY. AND THEN THE VIEWING AREA.

20 MR. ROBINSON: YES, SIR.

21 THE COURT: THIS SHOULD BE VERY BRIEF.

22 THIS IS THE FAMILY OF THE VICTIM, LOVED
23 ONES OF THE VICTIM, THIS IS THEIR VIEWING AREA; IS
24 THAT CORRECT?

25 MR. ROBINSON: THAT IS CORRECT.

1 THE COURT: AND IT'S IDENTICAL TO THE
2 INMATE ONE THAT'S JUST ON THE OTHER SIDE OF THE
3 ROOM, CORRECT?

4 MR. ROBINSON: CORRECT.

5 THE COURT: AND THEN THERE'S ANOTHER ROOM
6 BEHIND US WHICH, IF I -- FOR LACK OF ANYTHING ELSE,
7 LOOKS LIKE A STORAGE ROOM; IS THAT WHAT IT IS?

8 MR. ROBINSON: THAT IS EXACTLY WHAT IT
9 IS.

10 THE COURT: THERE ARE SOME EXTRA CHAIRS
11 IN THERE AND SOME BOXES AND SO FORTH, BUT THAT'S
12 NON EXECUTION RELATED STORAGE, CORRECT?

13 MR. ROBINSON: EXACTLY.

14 THE COURT: OKAY.

15 SO I UNDERSTAND FROM MR. KOLOMBATOVICH
16 THERE ACTUALLY IS A TRAY IN THE INFUSION ROOM THAT
17 IS LAID OUT THE WAY IT WAS WHEN WE LAST VISITED
18 HERE AND PERHAPS WE OUGHT TO GO BACK AND JUST HAVE
19 A LOOK AT IT.

20 SO IF WE COULD GO BACK TO THE INFUSION
21 ROOM.

22 THE COURT: SO FOR THE RECORD, IN ONE OF
23 THE UNLOCKED CABINETS NEXT TO THE UTILITY SINK WERE
24 TWO TRAYS.

25 AND PERHAPS OTHERS HAVE A BETTER MEMORY

1 OF THIS THAN I DO, THESE APPEAR ACTUALLY TO BE
2 SOMEWHAT DIFFERENT FROM THE TRAYS THAT WE HAD IN
3 THE OLD CHAMBER.

4 BUT THEY CONTAIN -- EACH OF THEM CONTAINS
5 EIGHT SYRINGES THAT ARE OBVIOUSLY EMPTY AT THIS
6 POINT, AND EACH OF THE SYRINGES HAS A LABEL ON IT
7 INDICATING WHAT MATERIAL IS TO BE PUT IN THE
8 SYRINGE.

9 ONE SET OF SYRINGES IS IN A RED TRAY, THE
10 LABELS ARE IN RED INK. THE OTHER IS IN A BLUE TRAY
11 WITH THE NOTATIONS IN BLUE INK.

12 AND I JUST WANT TO PUT IN THE RECORD WHAT
13 THE NOTATIONS ARE, AND THEN PERHAPS WE CAN GET AN
14 EXPLANATION.

15 THE RED TRAY WITH SYRINGES INDICATE
16 1.5 GRAMS OF THIOPENTAL. THERE ARE ACTUALLY TWO
17 SUCH SYRINGES. THERE'S A 50CC SALINE FLUSH, THEN
18 50 MILLIGRAMS OF PANCURONIUM BROMIDE, ANOTHER
19 SALINE FLUSH, 100 MILLIEQUIVALENTS OF POTASSIUM
20 CHLORIDE, ANOTHER SYRINGE WITH 100 MILLIEQUIVALENTS
21 OF POTASSIUM CHLORIDE, AND THEN ANOTHER SALINE
22 FLUSH.

23 THE OTHER SYRINGES ACTUALLY APPEAR TO BE
24 THE SAME, THEY ARE IN OPPOSITE ORDER BUT THEY
25 APPEAR TO BE THE SAME COMBINATION OF DRUGS, THE

1 SAME NUMBER OF SALINE FLUSHES, THE SAME AMOUNTS OF
2 THE SAME DRUGS.

3 AND PERHAPS THE FIRST QUESTION I WOULD
4 ASK IS WHY THERE ARE TWO TRAYS?

5 MR. GOLDMAN: JAY GOLDMAN FOR DEFENDANTS.

6 UNDER THE REGULATIONS THERE WILL BE A
7 TRAY, I BELIEVE IT'S REFERRED TO AS TRAY A WHICH IS
8 THE MAIN TRAY, AND THEN TRAY B WHICH WOULD BE A
9 BACKUP TRAY.

10 THE COURT: SO IF THERE WAS ANY PROBLEM
11 WITH ANY OF THE SYRINGES IN TRAY A, TRAY B IS THERE
12 AS A FAIL SAFE MECHANISM.

13 MR. GOLDMAN: IF THE WARDEN ORDERS TO
14 SWITCH TO THE BACKUP LINE. THEY WOULD SWITCH TO
15 THE TRAY THAT'S TRAY B.

16 THE COURT: AND THEN WITHOUT GETTING INTO
17 THE FINE DETAILS OF THE REGULATIONS, THERE ARE TWO
18 SYRINGES WITH 1.5 GRAMS EACH OF THIOPENTAL. AND
19 ONE IS THE PRIMARY INFUSION AND THE OTHER IS THE
20 BACKUP INFUSION, CORRECT?

21 MR. GOLDMAN: THE TRAY B IS ALL BACKUP,
22 TRAY A IS THE PRIMARY.

23 THE COURT: WHAT I'M -- LET ME SEE IF I
24 CAN BE MORE PRECISE.

25 EACH -- THERE ARE TWO SYRINGES WITH THE

1 SAME AMOUNT OF SODIUM THIOPENTAL IN THEM.

2 ONE OF THE SYRINGES WILL BE INJECTED INTO
3 EACH OF THE INMATE'S ARMS?

4 MR. GOLDMAN: NO.

5 THE COURT: ALL RIGHT. AND JUST WALK US
6 THROUGH.

7 MR. GOLDMAN: THERE ARE TWO IV LINES.
8 ONE IS ONLY FOR BACKUP PURPOSES.

9 THE PRIMARY IV LINE IS -- WOULD BE TRAY
10 A. ALL OF THE SYRINGES WOULD BE ADMINISTERED
11 THROUGH THE PRIMARY LINE.

12 THE COURT: RIGHT. SO EVERYTHING IN
13 TRAY A WILL BE USED IN THE EXECUTION?

14 MR. GOLDMAN: CORRECT.

15 THE COURT: AND THEN WHAT IN TRAY B WILL
16 BE USED UNDER WHAT CIRCUMSTANCE?

17 MR. GOLDMAN: IF THE WARDEN ORDERS A
18 SWITCH TO THE BACKUP LINE THEY WOULD, WHEREVER THEY
19 ARE IN TRAY A, ACCORDING TO THE REGULATIONS, START
20 OVER AND GO THROUGH THE ENTIRE SERIES OF SYRINGES
21 IN TRAY B.

22 THE COURT: SO IF THERE WAS ANY
23 INDICATION THAT ANY OF THE DRUGS IN TRAY A WERE NOT
24 HAVING THEIR INTENDED EFFECT, YOU HAVE AN IDENTICAL
25 DOSE IN TRAY B.

1 MR. GOLDMAN: IF THE THIOPENTAL IS NOT
2 HAVING THE INTENDED EFFECT, UNDER THE REGULATIONS
3 THE WARDEN ORDERS TO GO TO THE BACKUP LINE IN
4 TRAY B AND THEY START WITH THE VERY FIRST SYRINGE
5 AND GO THROUGH ALL THE PROCEDURES FOR ADMINISTERING
6 EACH SYRINGE IN THE REGULATIONS.

7 THE COURT: OKAY. SO YOU BASICALLY START
8 OVER IF THERE'S ANY PROBLEM WITH --

9 MR. GOLDMAN: CONSCIOUSNESS CHECKS.

10 THE COURT: WITH CONSCIOUSNESS CHECKS AS A
11 RESULT OF TRAY A. ALL RIGHT.

12 MR. HEATH: MARK HEATH.

13 WOULD IT BE OKAY TO DIM THE LIGHTS AND
14 CLOSE THE DOOR SO WE CAN SEE WHAT THE VISIBILITY OF
15 THAT SYRINGE TRAY IS WITH THE LIGHTS OFF?

16 THE COURT: I DON'T THINK THERE'S ANY
17 PROBLEM WITH THAT.

18 MR. HEATH: COULD WE CLOSE THE DOOR ALL
19 THE WAY?

20 THE COURT: ALL RIGHT.

21 SO NOW THE LIGHTS ARE DIMMED AND THERE
22 DOESN'T APPEAR TO BE ANY PROBLEM WITH VISIBILITY.

23 MR. HEATH: CAN WE DIM THE LIGHTS TO THE
24 POINT WHERE THEY ARE WHERE YOU WOULD NOT BE ABLE TO
25 SEE THROUGH THIS WINDOW?

1 THE COURT: WE'LL HAVE ONE OF THE CDCR
2 PEOPLE DO THAT. NOW THE LIGHTS ARE OFF.

3 AND NOW IT'S ACTUALLY PRETTY DARK IN
4 HERE. NOW YOU CAN'T SEE.

5 SO THERE IS A POINT WHERE ONE CANNOT SEE
6 THE WRITING ON THE SYRINGES. IT'S A QUESTION OF
7 UNDER THE REGS WHAT THE LIGHTING IN THIS ROOM WOULD
8 ACTUALLY BE.

9 BUT IF IT'S COMPLETELY DARKENED IN HERE,
10 THEN THESE AREN'T WRITTEN IN FLUORESCENT INK OR
11 ANYTHING LIKE THAT, YOU CAN'T SEE IF THERE ISN'T
12 ENOUGH AMBIENT LIGHT.

13 OKAY. ANY OTHER QUESTIONS?

14 MR. GRELE: YOUR HONOR, ON THE INTERNET
15 THEY HAVE SOME PHOTOGRAPHS THE CDCR MADE AVAILABLE
16 AND THE TRAYS -- DO YOU KNOW WHERE THE TRAYS ARE
17 LOCATED DURING THE EXECUTION? THEY ARE OBVIOUSLY
18 NOT OVER THERE ON THE SINK, OR AT LEAST MAYBE NOT.

19 THE COURT: WELL, THEY CERTAINLY AREN'T
20 IN A DRAWER, BUT COULD ANYONE WALK US THROUGH WHERE
21 IT IS, LIEUTENANT?

22 MR. ROBINSON: THE TRAYS ARE POSITIONED
23 ON THE COUNTER.

24 THE COURT: ON THE COUNTER.

25 MR. ROBINSON: DIRECTLY IN FRONT OF THE

1 PORTS.

2 THE COURT: OKAY.

3 COULD I ASK, AND THIS IS NOT SOMETHING
4 THAT I NEED TO BE PRESENT FOR, BUT WILL THERE BE AN
5 OPPORTUNITY AT SOME POINT FOR COUNSEL TO SEE THE
6 RIGGING, AS IT WERE, OF THE LINES, THE BAGS, THE
7 DRUGS; IS THAT AN OPPORTUNITY THAT COULD BE
8 PROVIDED AND SOME PHOTOGRAPHS TAKEN OR SOMETHING OF
9 THAT NATURE?

10 MR. QUINN: WE DON'T HAVE TO DISCUSS IT,
11 BUT IT'S SOMETHING WE COULD WORK OUT.

12 THE COURT: RIGHT.

13 I DON'T WANT TO GET INTO DETAILS, BUT IT
14 SEEMS TO ME IT WOULD BE USEFUL TO SEE THAT AT SOME
15 POINT. AND IF THE COURT NEEDS TO BE PRESENT -- BUT
16 SOME RECORD NEEDS TO BE MADE ON THAT.

17 MR. LAURENCE: MICHAEL LAURENCE HERE.

18 I ASSUME DURING TRAINING THE RIGGING IS
19 SET UP, SO POSSIBLY BEING ABLE TO OBSERVE A
20 TRAINING WOULD BE ABLE TO ANSWER OUR QUESTIONS; IS
21 THAT POSSIBLE?

22 MR. GOLDMAN: WELL, WE CAN DISCUSS WHAT
23 YOUR QUESTIONS ARE AND HOW WE CAN ANSWER THEM.

24 THE COURT: THE ONLY GUIDANCE I WOULD
25 GIVE IS I THINK THERE SHOULD BE SOME RECORD AS TO

1 WHAT THE APPARATUS LOOKS LIKE WHEN IT'S RIGGED, AND
2 HOW AND WHEN AND IN WHAT WAY YOU DO THAT IS
3 SOMETHING COUNSEL CAN DISCUSS.

4 MR. GOLDMAN: WE HAVEN'T RECEIVED ANY
5 DISCOVERY QUESTIONS REGARDING THOSE SPECIFICS, BUT
6 THOSE ARE TO BE EXPECTED.

7 THE COURT: AS THE FACT FINDER I'M GOING
8 TO WANT TO HAVE SOME INFORMATION ABOUT THAT.

9 SO WITH THAT VERY GENERAL GUIDANCE, I
10 LEAVE IT TO YOU TO FIGURE OUT THE BEST WAY TO DO
11 IT.

12 OKAY. ALL RIGHT. I THINK, LIEUTENANT,
13 HAVE WE COVERED EVERYTHING?

14 MR. ROBINSON: WE HAVE COVERED
15 EVERYTHING, SIR.

16 THE COURT: SO LET ME FIRST OF ALL GIVE
17 MY THANKS TO THE STAFF AT THE PRISON AND TO THE
18 WARDEN FOR DOING THIS FOR US.

19 AND JUST FOR THE BENEFIT AGAIN, OF MEDIA,
20 THE PUBLIC, WE HAVE A DISCOVERY STATUS CONFERENCE
21 ON FRIDAY, THREE DAYS FROM NOW, JUST TO DISCUSS
22 WHERE WE ARE WITH DISCOVERY IN THE CASE.

23 AND THEN WE HAVE SOME MOTION HEARINGS ON
24 MARCH 4TH. AND DEPENDING ON THE OUTCOME OF THOSE
25 PROCEEDINGS, THE NEXT STEP THE COURT INTENDS TO

1 TAKE IS TO SET AN EVIDENTIARY HEARING SO THE ISSUES
2 IN THIS CASE CAN BE ADJUDICATED.

3 AS I'VE SAID ON NUMEROUS OCCASIONS, I
4 WANT TO DO THAT AS SOON AS POSSIBLE.

5 OKAY. I THINK WE ARE ADJOURNED.

6 THANK YOU VERY, VERY MUCH.

7 (WHEREUPON, THE PROCEEDINGS IN THIS
8 MATTER WERE CONCLUDED.)
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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185